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09-CV-00262-CMP

FEB 27 2009 RE

AT SEATTLE
CLERK U.S. DISTRICT COURT
BY WESTERN DISTRICT OF WASHINGTON DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

A.A., M.A., C.F., P.K., J.M., F.V., G.V. and
J.V., all individuals,

Plaintiffs,

v.

SOCIETY OF JESUS, OREGON
PROVINCE, an Oregon Corporation;
SEATTLE UNIVERSITY, a Washington
corporation,

Defendants.

No. **C09-0262** RAJ

King County Superior Court
Case No. 07-2-22665-6SEA

**NOTICE OF REMOVAL PURSUANT
TO 28 U.S.C. 1452 AND BR 9027**

Defendant Society of Jesus, Oregon Province ("Debtor"), hereby removes the above-captioned action to this court, based on the following facts:

- On February 17, 2009 (the "Petition Date"), Debtor filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. sections 101 *et seq.* (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Oregon, Portland Division. Debtor's Chapter 11 case is being administered under Case No. 09 30938-ELP. The assigned Judge is the Honorable Elizabeth L. Perris.

NOTICE OF REMOVAL PURSUANT TO 28 U.S.C. 1452
AND BR 9027 - 1

SCHWABE, WILLIAMSON & WYATT, P.C.
Attorneys at Law
US Bank Centre
1420 5th Ave., Suite 3010
Seattle, WA 98101
206.822.1711

PDX/080048/155385/AJL/3424947.1.

ORIGINAL

NO summons issued SEA 24264

- 1 2. The above-referenced state action was commenced prior to the Petition Date
- 2 by the filing of a complaint in the King County Superior Court, State of
- 3 Washington.
- 4 3. The claims raised in this case may be removed to this Court. Removal is
- 5 proper because: (a) the claims are asserted in a civil action; (b) the claims are
- 6 not exempt from removal; and (c) this Court has subject matter jurisdiction
- 7 over the removed claims pursuant to 28 U.S.C. sections 1441, 1452 and 1334.
- 8 These claims raise federal questions and are related to Debtor's bankruptcy
- 9 proceeding. *See Calumet National Bank v. Levine*, 179 B.R. 117, 120 (N.D.
- 10 Ind. 1995) (stating that "related to" jurisdiction includes tort claims that
- 11 "might result in a substantial judgment against [the debtor] and, in turn, a
- 12 claim against the bankruptcy estate").
- 13 4. Pursuant to 28 U.S.C. section 1452 removal to this court is proper because it
- 14 is the "the district court for the district where [plaintiffs'] civil action is
- 15 pending." 28 U.S.C. § 1452.
- 16 5. Removal is timely pursuant to BR 9027(a)(2) because the claims were
- 17 pending before the Petition Date and this Notice has been filed within 90 days
- 18 of the Order for Relief from the Bankruptcy Court.
- 19 6. Consent of co-defendants, if any, is not necessary for removal under
- 20 28 U.S.C. Section 1452. *See Cal. Pub. Empl. Ret. Sys. V. Worldcom, Inc.*,
- 21 368 F.3d 86 (2d Cir. 2004).
- 22 7. Upon removal, all proceedings with respect to the removed claims and causes
- 23
- 24
- 25
- 26

NOTICE OF REMOVAL PURSUANT TO 28 U.S.C. 1452
AND BR 9027 - 2

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1 of action are core proceedings, except the liquidation or estimation of
 2 contingent or unliquidated personal injury tort claims against the bankruptcy
 3 estate for purposes of distribution in the Bankruptcy Case. 28 USC §
 4 157(b)(2)(B). As to any non-core proceedings concerning such claims,
 5 Debtor consents to entry of final orders or judgment by the bankruptcy judge,
 6 but only if the case is transferred to the United States District Court or the
 7 United States Bankruptcy Court for the District of Oregon.
 8

- 9 8. Pursuant to BR 9027(a)(1), this Notice is accompanied by copies of all
 10 process and pleadings filed in the state court action.

11 Pursuant to BR 9027(b), a copy of this Notice is being served on counsel of record
 12 for all parties.
 13

14 Dated this 27th day of February, 2009.



16
 17 Renea I. Saade, WSBA #30044
 18 Thomas V. Dulcich, WSBA #13807
 19 Schwabe, Williamson & Wyatt
 20 1420 Fifth Avenue, Suite 3010
 21 Seattle, WA 98101
 Telephone: 206-622-1711
 Facsimile: 206-292-0460
 Email: rsaade@schwabe.com

22 *Attorneys for Society of Jesus, Oregon Province*

23
 24
 25
 26
 NOTICE OF REMOVAL PURSUANT TO 28 U.S.C. 1452
 AND BR 9027 - 3

SCHWABE, WILLIAMSON & WYATT, P.C.
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ADDENDUM TO NOTICE

Due to the significant volume of the pleadings and other documents on record in the State Court action, copies of the same will be filed under separate cover.

NOTICE OF REMOVAL PURSUANT TO 28 U.S.C. 1452
AND BR 9027 - 4

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206.622.1711

CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of February, 2009, I served the foregoing
NOTICE OF REMOVAL PURSUANT TO 28 U.S.C. 1452 AND BR 9027 on the following
party at the following addresses:

Michael T. Pfau, Esq. **(by hand)**
Pfau Cochran Vertetis Kosnoff, PLLC
701 Fifth Avenue #4750
Seattle, WA 98104


Michelle Menely, Esq. **(by hand)**
Gordon, Thomas, Honeywell, Malanca, Peterson & Daheim, LLP
600 University St., Suite 2100
Seattle, WA 98101-4185

Colleen Kinerk, Esq. **(by hand)**
Cable, Langenbach, Kinerk & Bauer, LLP
1000 Second Avenue, Ste. 3500
Seattle, WA 98104-1048

F. Mike Shaffer, Esq. **(by mail)**
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Tacoma, WA 98402

John Allison, Esq. **(by mail)**
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E-Mail: jdallison@eahjlaw.com

As specified above.



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CERTIFICATE OF SERVICE- 4

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COPY

The Honorable Bruce Heller

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR THE COUNTY OF KING

A.A., M.A., C.F., P.K., J.M., F.V., G.V. and
J.V., all individuals,
Plaintiffs,

No. 07-2-22665-6SEA

vs.

SOCIETY OF JESUS, OREGON
PROVINCE, an Oregon Corporation;
SEATTLE UNIVERSITY, a Washington
corporation,
Defendants.

DEFENDANT SOCIETY OF JESUS,
OREGON PROVINCE'S NOTICE OF
REMOVAL TO U.S. DISTRICT
COURT - WESTERN DISTRICT OF
WASHINGTON

TO: The Clerk of King County Superior Court, State of Washington; and

TO: Plaintiffs A.A., M.A., C.F., P.K., J.M., F.V., G.V., and J.V., and their attorneys, Mike

Pfau, Esq., Pfau Cochran Vertetis Kosnoff, PLLC, 701 5th Ave., Suite 4750, Seattle, WA

98104, Telephone: 206-462-4334; Michelle Menely, Esq., Gordon, Thomas, Honeywell,

Malanca, Peterson & Daheim, LLP, 600 University St., Suite 2100, Seattle, WA 98101-4185,

Telephone: 206-676-7500; F. Mike Shaffer, Esq., Gordon, Thomas, Honeywell, Malanca,

Peterson & Daheim, LLP, 1201 Pacific Avenue, Suite 2100, Tacoma, WA 98402,

Telephone: 253-620-6500; and John Allison, Esq., Eymann, Allison, Hunter & Jones, P.S.,

2208 W. 2nd Ave, Spokane, WA 99204, Telephone: 509-747-0101; and

TO: Defendant, Seattle University, and its attorneys Colleen Kinerk, Esq., Cable,

Defendant SOCIETY OF JESUS, OREGON PROVINCE's
NOTICE OF REMOVAL TO U.S. DISTRICT COURT -
WESTERN DISTRICT OF WASHINGTON - 1

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Telephone 206.622.1711

ORIGINAL


1 Langenbach, Kinerk & Bauer, LLP, 1000 Second Avenue, Ste. 3500, Seattle, WA 98104-
 2 1048, Telephone: 206-292-8800
 3

4 PLEASE TAKE NOTICE that, on February 17, 2009, 2009 (the "Petition Date"),
 5 Defendant Society of Jesus, Oregon Province (the "Province") filed a voluntary petition for
 6 relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. Sections 101 *et seq.*
 7 (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Oregon,
 8 Portland Division. The Province's Chapter 11 case is being administered under Case No. 09
 9 30938-ELP. The assigned Judge is the Honorable Elizabeth L. Perris. Pursuant to 28 U.S.C.
 10 section 1452, the Society of Jesus, Oregon Province defendant has removed plaintiffs' "claim
 11 or cause of action" to the United States District Court for the Western District of Washington
 12 as "the district court for the district where [plaintiffs'] civil action is pending." 28 U.S.C.
 13 § 1452. All further actions in this matter are hereby stayed pursuant to 28 U.S.C. section
 14 1452, 11 U.S.C. section 362(a), and Bankruptcy Rule 9027. A copy of the Notice of
 15 Removal filed in the United States District Court for the Western District of Washington is
 16 attached for reference.
 17
 18

19 Dated this 27th day of February, 2009.

20 SCHWABE, WILLIAMSON & WYATT, P.C.

21
 22
 23 By:


 Renea I. Saade, WSBA #30044
 Thomas V. Dulcich, WSBA #13807
 Attorney for Defendant
 Society of Jesus, Oregon Province

24 Defendant SOCIETY OF JESUS, OREGON PROVINCE's
 25 NOTICE OF REMOVAL TO U.S. DISTRICT COURT -
 26 WESTERN DISTRICT OF WASHINGTON - 2

PDX\080048\155385\AJL\3423115.1

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 US Bank Centre
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 Seattle, WA 98101
 Telephone 206.622.1711

CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of February, 2009, I caused to be served the foregoing *Defendant Society of Jesus, Oregon Province's Notice of Removal to U.S. District Court – Western District of Washington* on the following parties at the following addresses:

Michael T. Pfau, Esq. (by hand)
Pfau Cochran Vertetis Kosnoff, PLLC
701 Fifth Avenue #4750
Seattle, WA 98104

Michelle Menely, Esq. (by hand)
Gordon, Thomas, Honeywell, Malanca, Peterson & Daheim, LLP
600 University St., Suite 2100
Seattle, WA 98101-4185

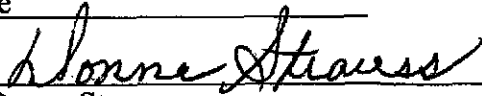
Colleen Kinerk, Esq. (by hand)
Cable, Langenbach, Kinerk & Bauer, LLP
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Facsimile: (509) 458-5977
E-Mail: jdallison@eahjlaw.com

by:

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | U.S. Postal Service, ordinary first class mail |
| <input type="checkbox"/> | U.S. Postal Service, certified or registered mail, |
| <input type="checkbox"/> | return receipt requested |
| <input type="checkbox"/> | hand delivery |
| <input type="checkbox"/> | facsimile |
| <input type="checkbox"/> | electronic service |
| <input checked="" type="checkbox"/> | other (specify) <u>As noted above</u> |


Donna Strauss

CERTIFICATE OF SERVICE - 1

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